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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP
Chairman
GARY PIERCE
Commissioner
BRENDA BURNS
Commissioner
BOB BURNS
Commissioner
SUSAN BITTER SMITH
Commissioner

Arizona Corporation Commission

DOCKETED

SEP 23 2013

DOCKETED BY	nr
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IN THE MATTER OF THE APPLICATION
OF H2O, INC. FOR APPROVAL OF SALE
OF ASSETS AND CONDITIONAL
CANCELLATION OF ITS CERTIFICATE
OF CONVENIENCE AND NECESSITY
TRANSFER OF CUSTOMER BASE AND
ASSETS.

DOCKET NOS. W-02234A-13-0237

DECISION NO. 74085

ORDER

Open Meeting
September 10 and 11, 2013
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

INTRODUCTION

1. On July 3, 2013, H2O, Inc. ("H2O" or "Company") filed an application with the Arizona Corporation Commission ("Commission" or "ACC") for approval of the sale of its assets and operations to the Town of Queen Creek ("Town") and for the cancellation and extinguishment of H2O's Certificate of Convenience and Necessity ("CC&N") to provide water service.

BACKGROUND

2. H2O is an Arizona corporation certificated to provide water utility services in the vicinity of the Town of Queen Creek and adjacent areas, pursuant to the Commission's Decision No. 43476 issued July 23, 1973.

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1 3. H2O indicates that its CC&N encompasses approximately 19 square miles and
2 provides service to 9,637 connections. Staff's legal description and map of the CC&N are
3 attached as Exhibit 1.

4 4. After a May 21, 2013 special election, the Town's voters approved (by a vote of
5 2,550 in favor to 379 against) the acquisition of H2O. An Asset Purchase Agreement ("Purchase
6 Agreement") between H2O and the Town was executed on June 19, 2013. According to the
7 Company, the Purchase Agreement provides that the closing of the parties' transaction (close of
8 escrow) is conditioned upon receipt of an Order from the Commission cancelling H2O's CC&N.
9 The main provisions of the Purchase Agreement are as follows:

- 10 • The Town will acquire all of the assets of H2O as outlined in the Purchase
11 Agreement, including its right to provide water utility service to customers residing
12 within H2O's CC&N. The total purchase price is \$15,000,000 in cash plus
13 approximately \$19,000,000 at 8% interest per annum, financed through tax exempt
14 municipal revenue obligation for 30 years. An earnest money deposit of \$500,000 will
15 be placed in escrow."
- 16 • The Town will assume all of H2O's obligations under existing mainline extension
17 agreements as outlined in the Purchase Agreement.
- 18 • The Town will obtain a loan from the Water Infrastructure Financing Authority of
19 Arizona ("WIFA") as established in the Purchase Agreement. H2O is presently indebted
20 to WIFA in the approximate amount of \$140,000 which H2O will retire in full at closing
21 together with any other indebtedness which WIFA requires to be retired/addressed,
22 which will then permit the WIFA Loan to be consummated.
- 23 • The Town will assume all existing customer accounts, including the customer
24 deposits. The itemized amount of all outstanding Meter Deposits relating to all current
25 customer accounts is set forth in the Purchase Agreement. The parties stipulate and
26 agree that \$267,470 is due to be refunded via bill credit to customer accounts at closing.

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THE H2O WATER SYSTEM

5. H2O's existing water system is comprised of 11 wells (6 inactive wells and 5 wells in service) having a combined production rate of 7,540 gallons per minute, 13 storage tanks having a combined storage capacity of 13,365,638 gallons, and a distribution system serving over 9,600 customers. Staff reviewed H2O's financial condition as documented in H2O's 2012 Annual Report. H2O's wells have adequate well production and storage capacity to serve the existing connections.

6. The Town intends to interconnect the Town's water system with the H2O's system which would allow for the redundancy of the water supply in the event of emergencies.

7. The application indicates that the Town will also provide wastewater service to much of the area, and the cancellation of H2O's CC&N will have the effect of combining water and wastewater service in one municipal provider. H2O and the Town believe approval of the application is in the public interest. Staff agrees.

RATES AND CUSTOMER SERVICE

8. After the acquisition, the Town will charge all customers the Town's currently existing rates. The vast majority of H2O's customers are served by 3/4 inch meters and use between 7,000 and 10,000 gallons per month. Thus, the average H2O customer should see minimal impact (\$0.46 to \$1.22) as illustrated in the following tables. The few H2O customers served by a 5/8" x 3/4" meter will continue receiving service at their existing H2O tariffed rates from the Town.

Monthly Water Bill Comparison**3/4" meter (93% of H2O's Customers)**

Current Water Rates		Town of Queen Creek	H2O
Minimum Charge 3/4"		\$18.33	\$15.60
0	1,000	0	1.43
1001	3,000	1.77	1.43

1	3,001	10,000	1.77	2.15
2	10,001	20,000	2.37	2.58
3	20,001	Above	2.96	2.58

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5 **Actual Water Bills at Gallons Used**

6	Usage (gallon)	H2O Water Bill	Town of Queen Creek Water bill	Difference
7				
8	5,000	\$24.19	\$25.41	+\$1.22
9	7,000	\$28.49	\$28.95	+\$0.46
10	10,000	\$34.94	\$34.26	-\$0.68
11	15,000	\$47.84	\$45.51	-\$2.33
12	20,000	\$60.74	57.36	-\$3.38

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14 9. The Town has experience owning and operating municipal water and wastewater

15 utilities and has indicated that: (1) it intends to provide the same level of service to customers

16 residing outside its existing service area at this date (i.e., H2O's former customers upon

17 consummation) as it provides to customers living within the Town's service area; and (2) the new

18 H2O customers will be governed by the same rate structure as customers located within the

19 Town's existing service area. Thus, no distinction will be drawn, for rate or service purposes,

20 between its current customers and customers now served by H2O. The ACC has previously

21 approved the sale of another water company, Queen Creek Water Company, to the Town of Queen

22 Creek (see Decision No. 70204), and the Town successfully assumed ownership and service

23 without issue.

24 10. The Utilities Division Consumer Services' Database indicates that over the last

25 three years, there have been six complaints against H2O concerning mostly billing issues. All

26 complaints have been resolved. Consumer Services has not received any filings in opposition to

27 this sale.

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1 CUSTOMER NOTICE

2 11. H2O printed notice of this application in the *East Valley Tribune* on July 31, 2013
3 and August 7, 2013. H2O also indicated that it mailed notice of this application to its customers
4 on August 6, 2013.

5 COMPLIANCE

6 12. The Utilities Division Compliance Database does not indicate that H2O has any
7 ACC compliance delinquencies. H2O is in good standing with the Commission's Corporations
8 Division as well.

9 13. Per Arizona Department of Environmental Quality ("ADEQ") Compliance Reports
10 dated July 12, 2013, ADEQ reported that the H2O water system, Public Water System ("PWS")
11 No. 11-060, has no major deficiencies and is currently delivering water that meets water quality
12 standards required by 40 C.F.R. 141 (National Primary Drinking Water Regulations) and the
13 Arizona Administrative Code ("A.A.C."), Title 18, Chapter 4.

14 14. ADEQ or its formally delegated agent, the Maricopa County Environmental
15 Services Department ("MCESD"), has reported (via Compliance Status Reports dated July 15,
16 2013) that the Town's water system (PWS No. 07-033) has no major deficiencies and is currently
17 delivering water that meets water quality standards required by 40 C.F.R. 141 (National Primary
18 Drinking Water Regulations) and A.A.C., Title 18, Chapter 4.

19 15. The Company is located within an Arizona Department of Water Resources
20 ("ADWR") Active Management Area ("AMA"). According to an ADWR Compliance Status
21 Report dated July 16, 2013, ADWR reported that the H2O water system is currently in compliance
22 with departmental requirements governing water providers and/or community water systems.

23 16. The Town is located in the ADWR's Phoenix AMA. According to an ADWR
24 Compliance Status Report dated August 7, 2013, ADWR reported that the Town's water system is
25 currently in compliance with departmental requirements governing water providers and/or
26 community water systems.

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1 RECOMMENDATIONS

2 17. The Town has entered into a Purchase Agreement with H2O executed on June 19,
3 2013, to acquire H2O's assets and customers. The Town has experience owning and operating
4 municipal water and wastewater utilities and will ensure a seamless transaction. Staff agrees with
5 the Town and H2O that the sale of H2O is in the public interest.

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7 18. The Town has shown its intentions to honor all H2O's obligations under mainline
8 extension agreements and to assume all existing customer accounts, including customer deposit
9 obligations. The Town has also committed that H2O customers located inside and outside of the
10 Town's boundaries will receive equal service and treatment as current Town customers.

11 19. Staff recommends approval of the transfer of the assets of H2O, Inc. to the Town of
12 Queen Creek and that the Commission cancels the CC&N of H2O with the following conditions:

13 A. That H2O file documentation of the successful close of escrow finalizing the sale
14 of H2O to the Town with the Commission in this docket.

15 B. That the Town honors all liabilities of H2O relating to mainline extensions and
16 customer deposits.

17 CONCLUSIONS OF LAW

18 1. H2O, Inc. is a public service corporation within the meaning of Article XV,
19 Section 2 of the Arizona Constitution.

20 2. The Commission has jurisdiction over H2O, Inc. and the subject matter of the
21 Application.

22 3. Notice of the Application and an opportunity to be heard were provided as required
23 by law.

24 4. There is a continuing need for water utility service in H2O's currently certificated
25 area.

26 5. The Town of Queen Creek is a fit and proper entity that is ready, willing and able to
27 assume the responsibility of providing water utility service within H2O's currently certificated
28 area.

6. The transfer of assets to the Town of Queen Creek is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the application of H2O, Inc. to sell its assets to the Town of Queen Creek and to cancel its Certificate of Convenience is hereby approved, and that the cancellation will be effective upon the closing of the sale and transfer of its assets to the Town of Queen Creek.

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IT IS FURTHER ORDERED that H2O, Inc. shall notify the Commission by a compliance filing in this docket of the successful close of escrow finalizing the sale of H2O, Inc. to the Town of Queen Creek, within 30 days of the closing.

IT IS FURTHER ORDERED that our approval of this application is based upon the Town of Queen Creek's commitment to honor all liabilities of H2O, Inc. relating to mainline extensions and customer deposits.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

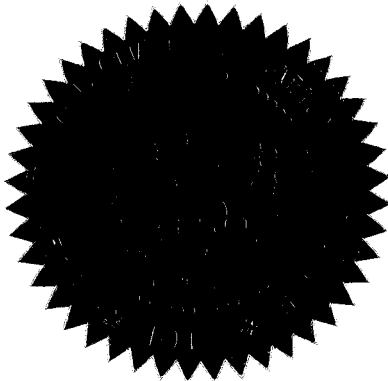

CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 23rd day of September, 2013.


JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:VW:sms\RRM

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